

ENTERED

June 16, 2016

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISIONREGINA WRIGHT,

Plaintiff,

v.

IGLOO PRODUCTS CORP.,

Defendant.§
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Civil Action No. H-16-202

MEMORANDUM AND RECOMMENDATION

On May 20, 2016, Plaintiff filed a motion for Default Judgment.¹ The court has considered the motion along with oral arguments presented at the scheduling conference on June 15, 2016. For the reasons set forth below, the court **RECOMMENDS** that Plaintiff's motion be **DENIED**.

This action was filed on January 22, 2016, and a summons was issued on April 8, 2016, and filed on Monday, April 11.² On May 2, 2016, Defendant filed an answer.³ On May 20, 2016, Plaintiff filed a motion for default judgment.⁴

Federal Rule of Civil Procedure ("Rule") 12(a)(1)(A) provides that a Defendant must file an answer within twenty-one days of being served with the summons and complaint. Rule 6(a) explains

¹ See Doc. 9, Pl.'s Mot. for Default J.

² See Doc. 1, Pl.'s Compl.; Doc. 6, Return of Serv. Summons serv. April 11, 2016.

³ See Doc. 8, Def.'s Answer.

⁴ See Doc. 9, Pl.'s Mot. for Default J.

how to compute any time period specified in the rules. The day of the event that triggers the time period is not counted; every subsequent day, including weekends and holidays, is counted; and, if the last day of the period falls on a Saturday, Sunday or legal holiday, the period runs until the next day that is not a Saturday, Sunday or legal holiday. Rule 6(a)(1).

Here, Defendant was served on April 8, 2016.⁵ Twenty-one days from the date of service was Saturday, April 29, 2016. Defendant's answer was filed on Monday, May 2, 2016, the day the answer was due. Plaintiff does not contest the timing of Defendant's filing with the court, but instead complains that she was not personally served with a copy of the answer within twenty-one days. Rule 12(a)(1)(A) concerns filings with the court, not with an opposing party. The court finds that the answer was timely filed and that Defendant is not in default.

It is therefore **RECOMMENDED** that Plaintiff's request for entry of default be **DENIED**.

The Clerk shall send copies of this Memorandum and Recommendation to the respective parties who have fourteen days from the receipt thereof to file written objections thereto pursuant to Rule 72(b) and General Order 2002-13. Failure to file written objections within the time period mentioned shall bar an aggrieved party from attacking the factual findings and legal

⁵ See Doc. 6, Return of Serv. Summons serv. April 11, 2016.

conclusions on appeal.

The original of any written objections shall be filed with the United States District Clerk electronically. Copies of such objections shall be mailed to opposing parties and to the chambers of the undersigned, 515 Rusk, Suite 7019, Houston, Texas 77002.

SIGNED in Houston, Texas, this 16th day of June, 2016.



U.S. MAGISTRATE JUDGE